

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ALYSON J. KIRLEIS,)	
)	Civil Action No. 06-1495
Plaintiff,)	Civil Action No. 06-1666
)	
vs.)	JUDGE GARY L. LANCASTER
DICKIE, MCCAMEY & CHILCOTE,)	
P.C.,)	ELECTRONICALLY FILED
)	
Defendant.)	

**DEFENDANT’S MOTION TO DISMISS THE COMPLAINTS OF PLAINTIFF,
AND, IF THERE IS JURISDICTION, TO COMPEL ARBITRATION**

Defendant Dickie, McCamey & Chilcote, P.C. (“Defendant” or “the Firm”), by and through its undersigned counsel in the above-captioned matter, pursuant to Fed. R. Civ. P. 12(b)(1), submits this Motion to Dismiss the Complaints of Plaintiff, and, If There is Jurisdiction, to Compel Arbitration (“Motion to Dismiss”) pursuant to the Federal Arbitration Act, 9 U.S.C. §§ 1 – 16 (“FAA”). In support of this Motion, Defendant relies upon its contemporaneously filed Brief, Concise Statement of Undisputed Material Facts, Affidavit and Exhibits in Support and states as follows:

1. On November 9, 2006, Plaintiff Alyson J. Kirleis (“Plaintiff”) filed her first Complaint against Defendant at Civil Action No. 06-1495. On December 18, 2006, Plaintiff filed a second Complaint against Defendant at Civil Action No. 06-1666. Both actions are assigned to this Court.

2. In her first Complaint, Plaintiff alleges that she was paid inadequately due to her sex in violation of the Equal Pay Act/Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, et seq. (“EPA”). Plaintiff also alleges that she was unlawfully discriminated against in compensation, subject to a hostile work environment and retaliated against because of her sex and complaints of discrimination in violation of the Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq. (“Title VII”) and the Pennsylvania Human

Relations Act, 43 P.S. § 951 *et seq.* (“PHRA”). In Plaintiff’s second Complaint, she makes similar allegations to those set forth in her first Complaint regarding alleged retaliation but with more factual detail.

3. Defendant moves this court to dismiss these actions in their entirety and with prejudice, as this Court does not have jurisdiction over Plaintiff’s Complaints because Plaintiff, as a Shareholder/Director, is an employer within the meaning of the EPA, Title VII and the PHRA.

4. Only if this Court determines that it has jurisdiction over Plaintiff’s statutory claims, then Defendant requests that this Court compel binding arbitration of Plaintiff’s claims, and dismiss these actions in their entirety and with prejudice since Plaintiff, as a Shareholder/Director, is obligated by the Firm’s By-Laws to submit all such claims to arbitration.

5. For all of the reasons set forth in Defendant’s Brief and Concise Statement of Undisputed Material Facts in Support, which have been filed contemporaneously with this Motion to Dismiss and are incorporated herein by reference, Defendant respectfully requests that this Court enter an Order dismissing these actions pursuant to Fed. R. Civ. P. 12(b)(1) in their entirety and with prejudice.

WHEREFORE, Defendant respectfully requests that this Court dismiss the Plaintiff’s actions in their entirety and with prejudice.

Dated: January 9, 2007

Respectfully submitted,
JACKSON LEWIS LLP

/s/ Martin J. Saunders
Martin J. Saunders
PA ID #19940
saunderm@jacksonlewis.com
Donna J. Geary
PA ID #62152
gearyd@jacksonlewis.com
Stephanie M. Weinstein

PA ID #200022

weinstes@jacksonlewis.com

One PPG Place, 28th Floor

Pittsburgh, PA 15222-5414

Telephone: (412) 232-0404

Facsimile: (412) 232-3441

Counsel for Defendant

Dickie, McCamey & Chilcote, P.C.

CERTIFICATE OF SERVICE

I hereby certify that on 9th day of January, 2007, I electronically filed the foregoing *DEFENDANT'S MOTION TO DISMISS THE COMPLAINTS OF PLAINTIFF, AND, IF THERE IS JURISDICTION, TO COMPEL ARBITRATION* with the Clerk of Court using the CM/ECF system to the following:

Edward B. Friedman
Gloria A. Aiello
Friedman & Friedman
900 Fifth Avenue, 2nd Floor
Pittsburgh, PA 15219

/s/ Martin J. Saunders
Martin J. Saunders